

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>CASSIUS CLAY, SR.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	<b>Civil Action No. 05-125E</b>
<b>v.</b>	)	<b>Judge Sean J. McLaughlin</b>
	)	<b>Mag. Judge Susan Paradise Baxter</b>
<b>TRACY REEVES, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

**CONCISE STATEMENT OF UNDISPUTED MATERIAL FACTS**

AND NOW come the defendants, by their attorneys, Thomas W. Corbett Jr., Attorney General, Mary Friedline, Senior Deputy Attorney General, and Susan J. Forney, Chief Deputy Attorney General, Chief, Litigation Section, and pursuant to this Court's February 5, 2008 Order, submit the following Concise Statement of Material Facts which they contend are not in dispute and are material to their Motion for Summary Judgment on the remaining retaliation claim:

1. Plaintiff filed Grievance 41097 in January 2003, alleging mail tampering by Brimmer related to an incident on 12/22/02. (Exh. II.)
2. In Grievance # 41097, plaintiff claimed his niece sent him a \$150 money order on 12/22/02 and accidentally included a powerball ticket. (Exh. II.) The letter was returned at the direction of the security captain but never received by plaintiff's family members. Id.
3. After filing grievance 41097 in January 2003, Plaintiff did not subsequently file a grievance claiming retaliation due to his filing of grievance 41097. (Exh. HH and JJ.)

4. Plaintiff filed one subsequent grievance naming Brimmer, #49518, dated 4/18/03, in which he claimed denial of access to the court because he had insufficient funds to mail a petition, and he was entitled to an advance under DOC policy even if he did not qualify as indigent. (Exh. BB.)

5. Grievance 49518 does not mention retaliation. Id.

6. Plaintiff failed to appeal grievance 49518 to final review. (Exh. HH at p.10.)

7. Clay did not file any grievances claiming "retaliation" after his transfer to SCI-Forest in November 2004. (Exh. JJ.)

8. Plaintiff filed a grievance related to mail tampering in August 2006 (well over 3 years after the incident at SCI-Greensburg and Grievance 41097). Further, it alleged mail tampering at SCI-Forest in July and August of 2006. (Exh. JJ.)

Respectfully submitted,

**THOMAS W. CORBETT JR.,  
Attorney General**

By: /s/ Mary Lynch Friedline  
MARY LYNCH FRIEDLINE  
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Susan J. Forney  
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Date: February 15, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that on February 15, 2008, I electronically filed the foregoing ***Concise Statement of Undisputed Material Fact re: Motion for Summary Judgment on Remaining Retaliation Claim*** with the Clerk of Court using the CM/ECF system. And I hereby certify that I have mailed the foregoing document by United States Postal Service to the following non CM/ECF participants:

Cassis M. Clay, Sr., DQ-5954  
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By: /s/ Mary Friedline  
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